

Daniel M. Hattis (SBN 232141)  
Paul Karl Lukacs (SBN 197007)  
HATTIS & LUKACS  
11711 SE 8<sup>th</sup> St, Ste 120  
Bellevue, WA 98005  
Telephone: (425) 233-8650  
Facsimile: (425) 412-7171  
Email: dan@hattislaw.com  
Email: pkl@hattislaw.com

Stephen P. DeNittis, Esq.  
(*pro hac vice* application to be submitted)  
DENITTIS OSEFCHEN PRINCE, P.C.  
5 Greentree Centre, Suite 410  
525 Route 73 N.  
Marlton, New Jersey 08057  
Telephone: (856) 797-9951  
Email: sdenittis@denittislaw.com

*Attorneys for Plaintiffs  
and the Proposed Class*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

AYANA STEVENSON,  
DAVID AMBROSE and  
LISA RAMIREZ,  
For Themselves,  
As Private Attorneys General, and  
On Behalf Of All Others Similarly Situated,

Plaintiffs,

v.

SIRIUS XM RADIO INC.,

Defendant.

Case No. 23-cv-02367-WHO

**ADMINISTRATIVE MOTION TO  
CONSIDER WHETHER CASES  
SHOULD BE RELATED**

[Civil Local Rule 3-12]

[Filed Simultaneously With Declaration of  
Paul Karl Lukacs and [Proposed] Order  
Relating Cases]

**RELIEF REQUESTED**

Plaintiffs Denise Woods and Sherry Tapia respectfully move for an order that:

1. Deems the recently filed civil action captioned *Denise Woods v. Sirius XM Radio, Inc.*, Northern District of California Case No. 3:24-cv-3799-RFL (the “*Woods Case*”) to be related to this lower-numbered civil action captioned *Ayana Stevenson v. Sirius XM Radio, Inc.*, Northern District of California Case No. 3:23-cv-02367-WHO (the “*Stevenson Case*”), and

2. Re-assigns the *Woods Case* to the Judge who presided over the *Stevenson Case*, which is Hon. William H. Orrick.

**REASONS SUPPORTING THE MOTION**

Plaintiffs Woods and Tapia bring this Motion under Civil Local Rule 3-12, which states that a civil action is “related” to another civil action if:

(1) The actions concern substantially the same parties, property, transaction, or event; and (2) It appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different Judges.

N. D. Cal. L.R. 3-12(a).

The Administrative Motion To Consider Whether Cases Should Be Related is routed for decision to the Judge who is or was presiding over the lower-numbered case. N. D. Cal. L.R. 3-12(f). If that Judge deems the two civil actions to be related, the higher-numbered action is re-assigned to the Judge who is or was presiding over the lower-numbered action. N. D. Cal. L.R. 3-12(f)(3). The lower-numbered action need not still be pending. N. D. Cal. L.R. 3-12(b) (“related to an action which is *or was* pending in this District”) (emphasis added).

The new *Woods Case* and the older *Stevenson Case* easily satisfy the definition of “related.” This Court is familiar with the *Stevenson Case*, having granted a motion to compel arbitration brought by Defendant Sirius XM Radio Inc. (“Sirius XM”). *See Stevenson v. Sirius XM Radio Inc.*, 2023 WL 7434945 (N.D. Cal. Nov. 9, 2023) (appeal pending).

This Court summarized the substantive allegations in this *Stevenson Case* as follows: “Plaintiffs allege that Sirius XM, a satellite radio service that broadcasts channels to more than

1 33 million subscribers, including 3.8 million Californians, intentionally does not disclose the  
2 ‘U.S. Music Royalty Fee’ to its customers. [First Amended Complaint] ¶ 2, 19. The fee  
3 increases the plan price by 21.4% above the advertised price for the plans; plaintiffs assert that  
4 Sirius XM prevents customers from learning about the additional charge by never sending  
5 period bills or payment receipts after initial subscription, yet nevertheless automatically  
6 renewing their subscriptions. *Id.* ¶¶ 19-20.” *Stevenson*, 2023 WL 7434945, at \*1.

7 The allegations of the *Woods* Case are substantially similar. In the operative Complaint,  
8 Plaintiffs Woods and Tapia allege a class action “to challenge a deceptive pricing scheme  
9 whereby Sirius XM falsely advertises its music plans at lower prices than it actually charges.  
10 Sirius XM fails to include in its advertised prices the amount of its invented ‘U.S. Music  
11 Royalty Fee,’ which increases the true plan price by 21.4% above the advertised price for the  
12 plans.” *Woods* Case Complaint, ¶ 1.

13 The two cases are not identical. In particular, the Sirius XM subscriptions of Plaintiffs  
14 Woods and Tapia commenced over the telephone (Complaint, ¶¶ 68, 81), and Plaintiffs Woods  
15 and Tapia bring their action on behalf of a proposed class of California consumers who signed  
16 up for Sirius XM services over the telephone (Complaint, ¶ 95).

17 The telephone sign-up aspect of the *Woods* case is important. When Sirius XM brings  
18 its inevitable motion to compel arbitration, Plaintiffs will take the position that the statements  
19 made between each Plaintiff and the Sirius XM agent over the phone did not bind either of the  
20 Plaintiffs to Sirius XM’s arbitration agreement; ergo, this Court should deny the arbitration  
21 motion. By contrast, the named plaintiffs in the *Stevenson* Case did not challenge (but did not  
22 admit) their acceptance of the Sirius XM arbitration agreement. *See* Plaintiffs’ Opposition To  
23 Motion To Compel Arbitration, *Stevenson* Case, at ECF p. 10:5-6 (Dkt. 27) (“In this  
24 Opposition, Plaintiffs are not challenging Sirius XM’s assertion that each Plaintiff accepted and  
25 agreed to the Customer Agreement.”)

26 That issue aside, the two cases bear sufficient similarity to each other to be “related”  
27 under the Civil Local Rules. Both cases involve the identical defendant, Sirius XM Radio Inc.  
28 Both cases involve the same “property, transaction, or event” in the sense that both involve

1 Sirius XM's scheme to advertise one rate for its services but to then increase the advertised rate  
 2 by adding an invented and undisclosed "U.S. Music Royalty Fee." It would be an unduly  
 3 burdensome duplication of labor for different Judges in the same District to rule upon Sirius  
 4 XM's arbitration agreement and to adjudicate the merits (when the two cases ultimately  
 5 proceed). A danger of conflicting results within the same District exists if two different Judges  
 6 examine the same arbitration agreement and similar sets of merits.

7 On July 2, 2024, counsel for Plaintiffs sent an email to counsel for Sirius XM asking if  
 8 they would stipulate to this relief. *See* Declaration of Paul Karl Lukacs In Support Of  
 9 Administrative Motion To Consider Whether Cases Should Be Related, ¶ 4 & Exhibit A (filed  
 10 simultaneously herewith). A prompt response was requested due to the impending Fourth of  
 11 July holiday weekend. *Ibid.* As of the time of the filing of this Administrative Motion, counsel  
 12 for Sirius XM has not responded. *Ibid.* (Due to the long holiday weekend, Plaintiffs have no  
 13 objection if Sirius XM takes an additional day or two to respond to this Administrative  
 14 Motion.)

15 Service of this Administrative Motion, the supporting Declaration of Paul Karl Lukacs  
 16 and the [Proposed] Order Relating Cases is being accomplished by ECF on July 3, 2024.  
 17 Lukacs Decl., ¶ 5. Sirius XM's defense counsel in this *Stevenson* Case is the law firm of Jones  
 18 Day, and Jones Day has confirmed to Plaintiffs' counsel that Jones Day will appear and  
 19 represent Sirius XM in the *Woods* Case. *Ibid.* A courtesy copy of this Motion, the supporting  
 20 declaration and the proposed order is also being emailed on July 3, 2024, to the counsel at  
 21 Jones Day who have appeared as defense counsel for Sirius XM in this *Stevenson* case. *Ibid.*

## 22 CONCLUSION

23 For the reasons stated, Plaintiffs Denise Woods and Sherry Tapia respectfully move for  
 24 an order that:

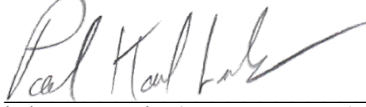
25 1. Deems the recently filed civil action captioned *Denise Woods v. Sirius XM*  
 26 *Radio, Inc.*, Case No. 3:24-cv-3799-RFL (the "*Woods* Case") to be related to this lower-  
 27 numbered civil action captioned *Ayana Stevenson v. Sirius XM Radio, Inc.*, Case No. 3:23-cv-  
 28 02367-WHO (the "*Stevenson* Case"), and

2. Re-assigns the *Woods* Case to the Judge who presided over the *Stevenson* Case,  
which is Hon. William H. Orrick.

Date: July 3, 2024

Presented by:

HATTIS & LUKACS

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Daniel M. Hattis (SBN 232141)  
Paul Karl Lukacs (SBN 197007)  
HATTIS & LUKACS  
11711 SE 8<sup>th</sup> St, Ste 120  
Bellevue, WA 98005  
Telephone: (425) 233-8650  
Email: dan@hattislaw.com  
Email: pkl@hattislaw.com

Stephen P. DeNittis, Esq.  
(*pro hac vice* application to be submitted)  
DENITTIS OSEFCHEN PRINCE, P.C.  
5 Greentree Centre, Suite 410  
525 Route 73 N.  
Marlton, New Jersey 08057  
Telephone: (856) 797-9951  
Email: sdenittis@denittislaw.com

*Attorneys for Plaintiffs and  
the Proposed Class*